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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,623	10/14/2003	Julian B. Melendrez	ZIGP102US	2622
24041	7590	02/28/2005	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			MCMAHON, MARGUERITE J	
			ART UNIT	PAPER NUMBER

3747

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/605,623	Applicant(s) MELENDREZ, JULIAN B.	
	Examiner Marguerite J. McMahon	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/15/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ettehadieh (5,063,368). Ettehadieh shows everything except utilizing configuring the magnetic device such that it sits on the upper side of the fuel line rather than to one side of the fuel line and providing a second magnet assembly including a second metal plate identical to the magnet assembly shown and locating the north pole of the magnet adjacent to the fuel line.

It would have been obvious to one of ordinary skill in the art to configure the device such that it would sit on the upper side of the fuel line rather than to one side of the fuel line, since the two different configurations are alternative equivalents, which would perform the same function. In addition, it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Applicant has not mentioned, either in the specification or in his remarks, that there is any benefit or advantage to be gained by providing the device on top of the fuel line as opposed to one side, as shown by the reference.

According to MPEP 2144.04 VI (B), it has been held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

It would have been obvious to one of ordinary skill at the time the invention was made to provide a second magnet assembly, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ettehadieh (5,063,368) in view of Melendrez (5,271,369). Ettehadieh shows everything except the shield substantially surrounding the fuel line, employing a focusing bar, providing a second magnet assembly including a second metal plate identical to the magnet assembly shown, and locating the north pole of the magnet adjacent to the fuel line.

Melendrez teaches that it is old in the art to configure the shield substantially surrounding the fuel line and to employ a focusing bar 150 (see Figure 7). It would have been obvious to one of ordinary skill in the art to modify Ettehadieh by configuring the shield to substantially surround the fuel line and employing a focusing bar, in order to concentrate the magnetic flux into the fuel line.

According to MPEP 2144.04 VI (B), it has been held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. It would have been obvious to one of ordinary skill at the time the invention was made to provide a second magnet assembly, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

With respect to claim 17, it would have been prima facie obvious to substitute the north pole for the south pole as the pole adjacent the fuel line, since they are art

recognized alternatives known for the same purpose, as evidenced by numerous claims in the instant application citing the use of the south pole located adjacent the fuel line.

Response to Arguments

Applicant's arguments filed 12/15/04 have been fully considered but they are not persuasive.

Applicant has amended to the claims to indirectly indicate that the magnetic device must be configured to sit on top of the fuel line. Although the claims do not explicitly state that this is the configuration, in order to meet the limitations of the amended claims, this configuration would be required. As noted above, there is no particular advantage or benefit to be gained by providing a configuration in which the magnetic device is situated on top of rather than to one side of the fuel line. Nor was this limitation considered to be significant enough to be included in the claims as originally filed.

With respect to claim 1, the magnet can be interpreted to comprise four magnets 14 acting as a single magnet (see Figure 3). If the device were rotated 90 degrees such that the magnetic device, were situated on top of the fuel line, the claim limitations are met. It would have been within the purview of one of ordinary skill in the art to make this sort of minor adjustment or rearrangement of the invention, as the device would function in exactly the same way in either case and the two arrangements are alternative equivalent arrangements. Thus, applicant's argument, with respect to claim 1, that the magnets whose lower sides are near the fuel line do not comprise those magnets upon which the metal plate is disposed is obviated.

With respect to claim 6, Ettehadieh shows “four strong primary magnets 14, preferably rectangular in configuration and each having a strength of about 1,000-1,500 gauss...” Thus the magnets comprise a total of much more than 2000 gauss.

With respect to claims 10, 11, and 13, which recite that two magnets and two metal plates are longitudinally disposed with respect to one another along the fuel line, it has been noted above that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. It would have been obvious to one of ordinary skill at the time the invention was made to provide a second magnet assembly disposed on the fuel line and including a second metal plate as part of the second assembly, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

With respect to claim 14, the magnets 20 can be interpreted to comprise two magnets, one on top of the other (when seen with the device rotated 90 degrees, as indicated above). Thus, the first magnet has a lower side centrally disposed adjacent a longitudinal portion of the fuel line. In addition, claim 14 recites that the shield substantially surrounds the fuel line. This limitation is shown by secondary reference Melendrez (5,271,369).

With respect to claims 16 and 17, note that, as mentioned above, according to MPEP 2144.04 VI (B), it has been held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. It would have been obvious to one of ordinary skill at the time the invention was made to provide a second

magnet assembly, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marguerite J. McMahon whose telephone number is 703-308-1956. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mm
MARGUERITE MCMAHON
PRIMARY EXAMINER